

**ASSEMBLY, No. 3031**

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**STATE OF NEW JERSEY**

**218th LEGISLATURE**

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INTRODUCED FEBRUARY 8, 2018

**Sponsored by:**

**Assemblyman ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**Assemblywoman BETTYLOU DECROCE**

**District 26 (Essex, Morris and Passaic)**

**SYNOPSIS**

Allows counties and municipalities to use open space trust funds for remediation of collapsed mine shafts and sinkholes on property owned by county or municipality.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/8/2018)**

1 AN ACT expanding the authorized uses of county and municipal  
2 open space trust funds, and amending and supplementing  
3 P.L.1997, c.24.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 1 of P.L.1997, c.24 (C.40:12-15.1) is amended to  
9 read as follows:

10 1. As used in P.L.1997, c.24 (C.40:12-15.1 et seq.):

11 "Acquisition" or "acquire" means the securing of a fee simple or  
12 a lesser interest in land, including but not limited to an easement  
13 restricting development, by gift, purchase, installment purchase  
14 agreement, devise, or condemnation, and includes the demolition of  
15 structures on, the removal of debris from, and the restoration of  
16 those lands to a natural state or to a state useful for recreation and  
17 conservation purposes.

18 "Blue Acres project" means any project to acquire, for recreation  
19 and conservation purposes, lands that have been damaged by, or  
20 may be prone to incurring damage caused by, storms or storm-  
21 related flooding, or that may buffer or protect other lands from such  
22 damage, and includes the demolition of structures on, the removal  
23 of debris from, and the restoration of those lands to a natural state  
24 or to a state useful for recreation and conservation purposes.

25 "Charitable conservancy" means a corporation or trust exempt  
26 from federal income taxation under paragraph (3) of subsection (c)  
27 of section 501 of the federal Internal Revenue Code of 1986 (26  
28 U.S.C. s.501(c)(3)), whose purposes include (1) acquisition and  
29 preservation of lands in a natural, scenic, or open condition, or (2)  
30 historic preservation of historic properties, structures, facilities,  
31 sites, areas, or objects, or the acquisition of such properties,  
32 structures, facilities, sites, areas, or objects for historic preservation  
33 purposes.

34 "County trust fund" means a "County Open Space, Recreation,  
35 Floodplain Protection, and Farmland and Historic Preservation  
36 Trust Fund" created pursuant to subsection c. of section 2 of  
37 P.L.1997, c.24 (C.40:12-15.2) or a "County Open Space,  
38 Recreation, Floodplain Protection, Farmland and Historic  
39 Preservation, and Mine Remediation Trust Fund" created pursuant  
40 to section 2 of P.L. , c. (C. ) (pending before the Legislature  
41 as this bill) .

42 "Development" means any improvement to land acquired for  
43 recreation and conservation purposes designed to expand and  
44 enhance its utilization for those purposes.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Farmland" means land actively devoted to agricultural or  
2 horticultural use that is valued, assessed, and taxed pursuant to the  
3 "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et  
4 seq.).

5 "Farmland preservation purposes" means the long-term  
6 preservation of farmland for agricultural or horticultural use.

7 "Historic preservation" means the performance of any work  
8 relating to the stabilization, repair, rehabilitation, renovation,  
9 restoration, improvement, protection, or preservation of an historic  
10 property, structure, facility, site, area, or object.

11 "Historic property, structure, facility, site, area, or object" means  
12 any property, structure, facility, site, area, or object approved for  
13 inclusion, or which meets the criteria for inclusion, in the New  
14 Jersey Register of Historic Places pursuant to P.L.1970, c.268  
15 (C.13:1B-15.128 et seq.).

16 "Land" or "lands" means real property, including improvements  
17 thereof or thereon, rights-of-way, water, lakes, riparian and other  
18 rights, easements, privileges and all other rights or interests of any  
19 kind or description in, relating to or connected with real property.

20 "Municipal trust fund" means a "Municipal Open Space,  
21 Recreation, Floodplain Protection, and Farmland and Historic  
22 Preservation Trust Fund" created pursuant to subsection c. of  
23 section 7 of P.L.1997, c.24 (C.40:12-15.7) or a "Municipal Open  
24 Space, Recreation, Floodplain Protection, Farmland and Historic  
25 Preservation, and Mine Remediation Trust Fund" created pursuant  
26 to section 3 of P.L. , c. (C. ) (pending before the Legislature  
27 as this bill) .

28 "Public indoor recreation" means public recreation in enclosed  
29 structures or facilities, and includes but is not limited to swimming  
30 pools, basketball courts, and ice skating rinks open for public use.

31 "Recreation and conservation purposes" means the use of lands  
32 for parks, open space, natural areas, ecological and biological study,  
33 forests, water reserves, wildlife preserves, fishing, hunting,  
34 camping, boating, winter sports, or similar uses for either public  
35 outdoor recreation or conservation of natural resources, or both, or  
36 the use of lands for public indoor recreation.

37 (cf: P.L. 2017, c.154, s.1)

38

39 2. (New section) a. (1) Notwithstanding any provision of  
40 P.L.1997, c.24 (C.40:12-15.1 et seq.) to the contrary, the governing  
41 body of a county whose voters, prior to the effective date of P.L. ,  
42 c. (C. ) (pending before the Legislature as this bill), approved a  
43 proposition pursuant to P.L.1997, c.24 (C.40:12-15.1 et seq.) for  
44 any of the purposes enumerated in paragraph (1) of subsection a. of  
45 section 2 of P.L.1997, c.24 (C.40:12-15.2) may adopt an ordinance  
46 to use monies in the "County Open Space, Recreation, Floodplain  
47 Protection, and Farmland and Historic Preservation Trust Fund,"  
48 created pursuant to subsection c. of section 2 of P.L.1997, c.24

1 (C.40:12-15.2), for the additional purpose of the remediation of  
2 collapsed mine shafts and sinkholes on property owned by the  
3 county.

4 (2) Prior to the adoption of an ordinance pursuant to paragraph  
5 (1) of this subsection, the governing body of the county shall  
6 conduct at least one public hearing thereon at least 45 days before  
7 the governing body may adopt the ordinance. In addition to any  
8 other applicable requirements of law, rule, or regulation, the  
9 governing body shall provide notice of the public hearing required  
10 pursuant to this subsection, at least 30 days before the date of the  
11 hearing, in the following manner:

12 (a) by mailing or otherwise providing a written copy of the  
13 notice to: the county clerk; the municipal clerk of each  
14 municipality within the county; any person who has made a request  
15 in writing to receive such notices; the Commissioner of  
16 Environmental Protection; and the Secretary of Agriculture; and

17 (b) by publishing the notice in a daily or weekly newspaper of  
18 general circulation in the county and each municipality in the  
19 county.

20 (3) The notice required pursuant to paragraph (2) of this  
21 subsection shall include:

22 (a) a general description of the county's plans for the  
23 remediation of collapsed mine shafts and sinkholes on property  
24 owned by the county and the location of any lands anticipated to be  
25 affected;

26 (b) an estimate of the anticipated cost of the remediation of the  
27 collapsed mine shafts or sinkholes;

28 (c) a description of the anticipated impact of the use of funds for  
29 the remediation of collapsed mine shafts and sinkholes on property  
30 owned by the county will have on each of the plans prepared and  
31 adopted by the county pursuant to subsection d. of section 2 of  
32 P.L.1997, c.24;

33 (d) the date, time, and place of the public hearing;

34 (e) instructions detailing the manner in which the public may  
35 submit written comments to the governing body of the county on or  
36 before the date of the public hearing; and

37 (f) the name and address of the person designated by the  
38 governing body of the county to receive the written comments and  
39 contact for additional information.

40 b. Upon adoption of an ordinance pursuant to subsection a. of  
41 this section, the county trust fund created for the purposes of  
42 P.L.1997, c.24 shall be dissolved and any monies therein shall be  
43 deposited into a "County Open Space, Recreation, Floodplain  
44 Protection, Farmland and Historic Preservation, and Mine  
45 Remediation Trust Fund" to be created and utilized for the purposes  
46 authorized pursuant to section 2 of P.L.1997, c.24 and for the  
47 remediation of collapsed mine shafts and sinkholes on property  
48 owned by the county.

1 c. Upon adoption of an ordinance pursuant to subsection a. of  
2 this section, the governing body of the county shall provide a copy  
3 of the adopted ordinance to the Commissioner of Environmental  
4 Protection and the Secretary of Agriculture.

5 d. A county shall not expend more than \$100,000 for any  
6 proposed project or use related to the remediation of a collapsed  
7 mine shaft or sinkhole pursuant to an ordinance adopted pursuant to  
8 subsection a. of this section unless the governing body of the county  
9 first conducts a public hearing on the proposed project or use and  
10 adopts an ordinance authorizing the specific expenditure.

11 (1) A public hearing required pursuant to this subsection shall  
12 be held at least 45 days before the governing body may adopt the  
13 ordinance. In addition to any other applicable requirements of law,  
14 rule, or regulation, the governing body shall provide notice of the  
15 public hearing required pursuant to this subsection, at least 30 days  
16 before the date of the hearing, in the following manner:

17 (a) by mailing or otherwise providing a written copy of the  
18 notice to: the county clerk; the municipal clerk of each  
19 municipality within the county; any person who has made a request  
20 in writing to receive such notices; the Commissioner of  
21 Environmental Protection; and the Secretary of Agriculture; and

22 (b) by publishing the notice in a daily or weekly newspaper of  
23 general circulation in the county and each municipality in which the  
24 collapsed mine hole or sinkhole is located.

25 (2) The notice required pursuant to paragraph (1) of this  
26 subsection shall include:

27 (a) a general description of the location of the land or lands to  
28 be affected, the proposed remediation for the collapsed mine shaft  
29 or sinkhole, and the estimated cost of the proposed project;

30 (b) a schedule setting forth the anticipated commencement and  
31 completion date for the proposed project;

32 (c) the date, time, and place of the public hearing;

33 (d) instructions detailing the manner in which the public may  
34 submit written comments to the governing body of the county on or  
35 before the date of the public hearing; and

36 (e) the name and address of the person designated by the  
37 governing body of the county to receive the written comments and  
38 contact for additional information.

39 e. In no case shall a county increase the amount or rate of the  
40 levy previously approved by the voters pursuant to P.L.1997, c.24  
41 without submitting a proposition to the voters amending or  
42 supplementing the proposition previously submitted, approved, and  
43 implemented pursuant to section 2 of P.L.1997, c.24.

44

45 3. (New section) a. (1) Notwithstanding any provision of  
46 P.L.1997, c.24 (C.40:12-15.1 et seq.) to the contrary, the governing  
47 body of a municipality whose voters, prior to the effective date of  
48 P.L. , c. (C. ) (pending before the Legislature as this bill),

1 approved a proposition pursuant to P.L.1997, c.24 (C.40:12-15.1 et  
2 seq.) for any of the purposes enumerated in paragraph (1) of  
3 subsection a. of section 7 of P.L.1997, c.24 (C.40:12-15.7) may  
4 adopt an ordinance to use monies in the “Municipal Open Space,  
5 Recreation, Floodplain Protection, and Farmland and Historic  
6 Preservation Trust Fund,” created pursuant to subsection c. of  
7 section 7 of P.L.1997, c.24 (C.40:12-15.7), for the additional  
8 purpose of the remediation of collapsed mine shafts and sinkholes  
9 on property owned by the municipality.

10 (2) Prior to the adoption of a ordinance pursuant to paragraph  
11 (1) of this subsection, the governing body of the municipality shall  
12 conduct at least one public hearing thereon at least 45 days before  
13 the governing body may adopt the ordinance. In addition to any  
14 other applicable requirements of law, rule, or regulation, the  
15 governing body shall provide notice of the public hearing required  
16 pursuant to this subsection, at least 30 days before the date of the  
17 hearing, in the following manner:

18 (a) by mailing or otherwise providing a written copy of the  
19 notice to: the municipal clerk; any person who has made a request  
20 in writing to receive such notices; the Commissioner of  
21 Environmental Protection; and the Secretary of Agriculture; and

22 (b) by publishing the notice in a daily or weekly newspaper of  
23 general circulation in the municipality and in the county.

24 (3) The notice required pursuant to paragraph (2) of this  
25 subsection shall include:

26 (a) a general description of the municipality’s plans for the  
27 remediation of collapsed mine shafts and sinkholes on property  
28 owned by the municipality and the location of any lands anticipated  
29 to be affected;

30 (b) an estimate of the aggregate amount of monies anticipated to  
31 be necessary for the remediation of the collapsed mine shafts or  
32 sinkholes;

33 (c) a description of the anticipated impact of the use of funds for  
34 the remediation of collapsed mine shafts and sinkholes on property  
35 owned by the municipality will have on any of the purposes  
36 enumerated in paragraph (1) of subsection a. of section 7 of  
37 P.L.1997, c.24 (C.40:12-15.7) previously approved by the voters of  
38 the municipality;

39 (d) the date, time, and place of the public hearing;

40 (e) instructions detailing the manner in which the public may  
41 submit written comments to the governing body of the municipality  
42 on or before the date of the public hearing; and

43 (f) the name and address of the person designated by the  
44 governing body of the municipality to receive the written comments  
45 and contact for additional information.

46 b. Upon adoption of an ordinance pursuant to subsection a. of  
47 this section, the municipal trust fund created for the purposes of  
48 P.L.1997, c.24 shall be dissolved and any monies therein shall be

1 deposited into a “Municipal Open Space, Recreation, Floodplain  
2 Protection, Farmland and Historic Preservation, and Mine  
3 Remediation Trust Fund” to be created and utilized for the purposes  
4 authorized pursuant to section 2 of P.L.1997, c.24 and for the  
5 remediation of collapsed mine shafts and sinkholes on property  
6 owned by the municipality.

7 c. Upon adoption of an ordinance pursuant to subsection a. of  
8 this section, the governing body of the municipality shall provide a  
9 copy of the adopted ordinance to the Commissioner of  
10 Environmental Protection and the Secretary of Agriculture.

11 d. A municipality shall not expend more than \$100,000 for any  
12 proposed project or use related to the remediation of a collapsed  
13 mine shaft or sinkhole pursuant to an ordinance adopted pursuant to  
14 subsection a. of this section unless the governing body of the  
15 municipality first conducts a public hearing on the proposed project  
16 or use and adopts an ordinance authorizing the specific expenditure.

17 (1) A public hearing required pursuant to this subsection shall  
18 be held at least 45 days before the governing body may adopt the  
19 ordinance. In addition to any other applicable requirements of law,  
20 rule, or regulation, the governing body shall provide notice of the  
21 public hearing required pursuant to this subsection, at least 30 days  
22 before the date of the hearing, in the following manner:

23 (a) by mailing or otherwise providing a written copy of the  
24 notice to: the municipal clerk; any person who has made a request  
25 in writing to receive such notices; the Commissioner of  
26 Environmental Protection; and the Secretary of Agriculture; and

27 (b) by publishing the notice in a daily or weekly newspaper of  
28 general circulation in the municipality and in the county.

29 (2) The notice required pursuant to paragraph (1) of this  
30 subsection shall include:

31 (a) a general description of the location of the land or lands to  
32 be affected, the proposed remediation for the collapsed mine shaft  
33 or sinkhole, and the estimated cost of the proposed project;

34 (b) a schedule setting forth the anticipated commencement and  
35 completion date for the proposed project;

36 (c) the date, time, and place of the public hearing;

37 (d) instructions detailing the manner in which the public may  
38 submit written comments to the governing body of the municipality  
39 on or before the date of the public hearing; and

40 (e) the name and address of the person designated by the  
41 governing body of the municipality to receive the written comments  
42 and contact for additional information.

43 e. In no case shall a municipality increase the amount or rate of  
44 the levy previously approved by the voters pursuant to P.L.1997,  
45 c.24 without submitting a proposition to the voters amending or  
46 supplementing the proposition previously submitted, approved, and  
47 implemented pursuant to section 7 of P.L.1997, c.24.

1       4. This act shall take effect immediately.

2

3

4

STATEMENT

5

6       This bill would allow a county or municipality to use monies in  
7 their “open space trust fund” for the remediation of collapsed mine  
8 shafts and sinkholes on property owned by the county or  
9 municipality.

10       Under current law, counties are authorized to establish “County  
11 Open Space, Recreation, Floodplain Protection, and Farmland and  
12 Historic Preservation Trust Funds” and municipalities are  
13 authorized to establish “Municipal Open Space, Recreation,  
14 Floodplain Protection, and Farmland and Historic Preservation  
15 Trust Funds.” These funds are often referred to as “open space trust  
16 funds.” This bill would expand this authorization to allow counties  
17 and municipalities to use the monies in such funds for the additional  
18 purpose of remediation of collapsed mine shafts and sinkholes on  
19 property owned by the county or municipality.

20       Under this bill, a county or municipality would not be required to  
21 obtain voter approval to use funds in their open space trust fund for  
22 the remediation of collapsed mine shafts and sinkholes; however,  
23 the county or municipality would be required to adopt a resolution  
24 or ordinance, as appropriate, prior to doing so, and comply with  
25 public notice requirements contained in the bill.